

**PROCEEDING BEFORE THE HONORABLE MICHAEL D. RILEY  
INSURANCE COMMISSIONER OF THE  
STATE OF WEST VIRGINIA**

**IN RE:  
ARGONAUT GREAT CENTRAL INSURANCE COMPANY**

**ADMINISTRATIVE PROCEEDING  
12-MAP-02002**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION, DIRECTING  
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES, The Honorable Michael D. Riley, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for the targeted examination of Argonaut Great Central Insurance Company, hereinafter referred to as "Argonaut," for the examination period ending December 31, 2011, based upon the following findings, to wit:

**PARTIES**

1. The Honorable Michael D. Riley, is the Insurance Commissioner of the State of West Virginia (hereinafter the "Insurance Commissioner") and is charged with the duty of administering and enforcing, among other duties, the provisions of Chapter 33 of the West Virginia Code of 1931, as amended.

2. This Targeted Market Conduct Examination was instituted as a result of the Final Order entered in Administrative Proceeding 10-AP-THP-02178. The Administrative Order concluded that Argonaut committed a single violation of W. Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.3.

3. The purpose of this targeted examination was to determine Argonaut's

compliance with West Virginia Insurance laws relating to treatment of policyholders and third party claimants. Examination information contained in the Market Conduct Report should serve only these purposes. The conclusions and findings of the Market Conduct Examination are public record.

### **FINDINGS OF FACT**

1. The Targeted Market Conduct Examination reviewed and tested: complaint handling, claims practices and underwriting from specific dedicated populations. The examination covered the period of operations from January 1, 2009, through December 31, 2011. The examination was conducted in accordance with West Virginia Code Section 33-2-9(c) by examiners duly appointed by the West Virginia Offices of the Insurance Commissioner.

2. This examination was the first Market Conduct Examination of Argonaut conducted by the State of West Virginia. The field portion of the examination began on March 26, 2012, and concluded on April 20, 2012. The examination was conducted in San Antonio, Texas, and also through remote access to the files via VPN (virtual private network).

3. A total of fifteen (15) standards were reviewed during this examination. Of these fifteen (15) standards, Argonaut passed thirteen (13), and failed two (2). Of the thirteen (13) standards passed three (3) included recommendations.

4. The result of the Targeted Market Conduct Examination did reveal instances of non-compliance with West Virginia Code Section 33-11-4(9)(b) cited in Administrative Proceeding 10-AP-THP-02178. These instances did not occur with such frequency as to indicate a general business practice.

5. In addition, the exam found instances regarding non-compliance with state statute or code. Five (5) claims violated W. Va. Code R § 114-14-6.3, One (1) claim violated W. Va. Code R. § 114-14-6.12, Two (2) claims violated W. Va. Code R. § 114-14-5.3 and Three (3) claims violated W. Va. Code R. § 114-14-3 and 114-15.4.4

6. There were issues regarding violations of state statute or code that occurred with enough frequency as to indicate a general business practice. These violations included: failing to send or not sending timely delay letters and not including the appropriate Insurance Commissioner's contact information in the denial letters.

7. On June 25, 2012, the examiner filed with the Insurance Commissioner, pursuant to West Virginia Code Section 33-2-9(j)(2), a Report of Market Conduct Examination.

8. On June 25, 2012, a true copy of the Report of Market Conduct Examination was sent to Argonaut by certified mail receipt requested, and was received by Argonaut on July 11, 2012.

9. On June 25, 2012, Argonaut was notified that, pursuant to West Virginia Code Section 33-2-9(j)(2), it had thirty (30) days after receipt of the Report of Market Conduct Examination to file a submission or objection with the Insurance Commissioner.

10. On July 25, 2012, Argonaut provided comments and plans of action addressing the Comments and Recommendations outlined in the Report of Market Conduct Examination.

11. Argonaut has developed a delay letter template and implemented procedures to ensure that delay letters are sent as required by W. Va. Code R. § 114-14-6.7. In addition, Argonaut has met with claims staff to review this requirement.

12. Argonaut, prior to the Market Conduct Exam, revised the denial letter to provide the appropriate Insurance Commissioner's contact information. In addition, they have met with claims staff to review this requirement.

13. Argonaut claims managers have been informed of the recommendations made by the West Virginia Market Conduct Examination Report and current procedures are being reviewed to ensure compliance with West Virginia statutes and regulations.

14. Argonaut waives notice of administrative hearing, any and all rights to an administrative hearing, and to judicial review of this matter.

15. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such and incorporated in the next section.

#### CONCLUSIONS OF LAW

1. The Insurance Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with West Virginia Code Section 33-2-9.

3. The Insurance Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code and the West Virginia Code of State Rules by Argonaut as well as all other provisions of regulation that Argonaut is subjected to by virtue of their Certificate of Authority to operate in the State of West Virginia.

4. There does not appear to be any intentional conduct exhibited by Argonaut in this examination findings and scope.

5. Argonaut has incurred violations of W. Va. Code § 33-11-4(9)(c) and W. Va. Code R. § 114-14-6.7, as well as W. Va. Code R. § 114-14-6.17. This finding does

not directly relate to the violation found in Administrative proceeding 10-AP-THP-02178. However, the above violations did occur with such frequency as to constitute a general business practice.

6. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

### **ORDER**

Pursuant to West Virginia Code Section 33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and Argonaut's response thereto, the Insurance Commissioner and Argonaut have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination. The Parties have further agreed to the imposition of an administrative penalty against Argonaut as set forth below.

It is accordingly **AGREED** and **ORDERED** as follows:

(A) The Report of Market Conduct Examination of Argonaut for the period ending December 31, 2011 is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner;

(B) It is **AGREED** and **ORDERED** that Argonaut will **CEASE AND DESIST** from failing to comply with the Statutes, Rules and regulations of the State of West Virginia concerning any claims so handled in this State and more specifically the provisions enumerated herein.

(C) It is further **AGREED** and **ORDERED** that within thirty (30) days of the next regularly scheduled meeting of its Board of Directors, Argonaut shall file with the West Virginia Insurance Commissioner, in accordance with West Virginia Code Section 33-2-9(j)(4), affidavits executed by each of its directors stating under oath that they have

received a copy of the adopted Report of Market Conduct Examination and a copy of this ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION AND DIRECTING CORRECTIVE ACTION;

(D) It is further **AGREED** and **ORDERED** that Argonaut shall ensure compliance with the West Virginia Code and the Code of State Rules. Argonaut shall continue to monitor its compliance with W.Va. Code § 33-11-4(9) (c) and W. Va. Code R. § 114-14-6.7 and §114-14-6.17.

(E) It is further **AGREED** and **ORDERED** that **ARGONAUT SHALL FILE** a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail Argonaut's changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and incorporate all recommendations of the Insurance Commissioner's examiners and address all violations specifically cited in the Report of Market Conduct Examination. The Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. Argonaut shall implement reasonable changes to the Corrective Action Plan if requested by the Insurance Commissioner within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan. The Insurance Commissioner shall provide notice to Argonaut if the Corrective Action Plan is disapproved and the reasons for such disapproval within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan.

(F) It is **AGREED** and **ORDERED** that Argonaut shall pay an administrative penalty to the State of West Virginia in the amount of Twenty Thousand Dollars (\$20,000.00) for non-compliance with the West Virginia Code and West Virginia Rules as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty or remedy

and is due upon execution of this order

(G) It is **AGREED** and **ORDERED** that all such statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Market Conduct Examination and Agreed Order. All such rights are preserved by the Parties regarding implementation or further action taken on such Order by the Commissioner against Argonaut.

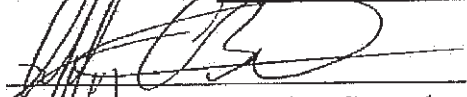
Entered this 5<sup>th</sup> day of December, 2012



The Honorable Michael D. Riley  
Insurance Commissioner

**REVIEWED AND AGREED TO BY:**

On behalf of the **INSURANCE COMMISSIONER:**



Jeffrey C. Black, Associate Counsel  
Attorney Supervisor – Compliance & Enforcement

Dated: 12/4/12

On Behalf of **ARGONAUT GREAT CENTRAL INSURANCE COMPANY**

By: Michael E. Arledge  
Print Name

Its: President

Signature: 

Date: November 28, 2012

# **REPORT OF MARKET CONDUCT EXAMINATION**

As of December 31, 2011



## **Argonaut Great Central Insurance Company**

225 W. Washington, 6<sup>th</sup> Floor

Chicago, IL 60606

**NAIC COMPANY CODE 19860**

**Examination Number WV014-M27**



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**MARKET CONDUCT EXAMINATION ARGONAUT GREAT CENTRAL INSURANCE COMPANY**

June 25, 2012

The Honorable Michael D. Riley  
West Virginia Insurance Commissioner  
1124 Smith Street  
Charleston, West Virginia 25301

Dear Commissioner Riley:

Pursuant to your instructions and in accordance with W. Va. Code §33-2-9, an examination has been made as of December 31, 2011 regarding treatment of claimants of:

**Argonaut Great Central Insurance Company**

225 W. Washington, 6<sup>th</sup> Floor

Chicago, IL 60606

hereinafter referred to as the "Company." The following report of the findings of this target examination is herewith respectfully submitted.

## FOREWORD

This is a report by test of Company compliance with selected Standards contained in the National Association of Insurance Commissioners' (NAIC) *2011 Market Regulation Handbook* ("Handbook") and Standards approved by the West Virginia Office of the Insurance Commissioner ("WVOIC") which are based on applicable West Virginia statutes and administrative rules, as referenced herein. Testing is based on guidelines contained in the Handbook. All tests applied are included in this report.

"Company" as used herein refers to Argonaut Great Central Insurance Company. "WVOIC" as used herein refers to the West Virginia Office of the Insurance Commissioner. "W.Va. Code St. R." as used herein refers to the West Virginia Code of State Rules. "W.Va. Code" as used herein refers to the West Virginia Code Annotated.

## PURPOSE AND SCOPE OF EXAMINATION

Market conduct examiners with the WVOIC reviewed certain business practices of Argonaut Great Central Insurance Company. W. Va. Code §33-2-9 empowers the Commissioner to examine any entity engaged in the business of insurance. The findings in this report, including all work products developed in producing it, are the sole property of the WVOIC.

The purpose of this targeted examination was to determine the Company's compliance with West Virginia insurance laws relating to treatment of policyholders and third party claimants. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

This examination was governed by, and performed in accordance with procedures developed by the WVOIC that are based on those of the National Association of Insurance Commissioners (NAIC), modified to conform to the requirements of West Virginia insurance laws. In reviewing material for this report, the examiners relied primarily on records and material maintained and/or submitted by the Company. The examination covered the period of the Company's operations, from January 1, 2009 through December 31, 2011.

File sampling was based on review of closed without payment/denied and paid claim files. Files were randomly selected from the data provided by the Company. Sample sizes were chosen based on procedures developed by the NAIC. Standards pertaining to this target market conduct examination were utilized from the 2011 NAIC *Market*

## MARKET CONDUCT EXAMINATION ARGONAUT GREAT CENTRAL INSURANCE COMPANY

*Regulation Handbook.* Upon review of each file, any concerns or discrepancies were noted on requests for information and delivered to the Company for review. Once the Company was advised of a concern contained in a request for information (RFI), the Company had the opportunity to respond. For each finding, the Company was requested to agree, disagree, or otherwise justify the Company's noted action. At the conclusion of the fieldwork, the Company was provided a summary of the findings at the exit conference and a draft of the report was provided for the Company's review. The examination report is a report by test, reporting all areas reviewed and for each test, reports if the examiners found that the Company "Passed," "Failed," or "Passed with Recommendation."

The basic business areas that were reviewed and tested under this examination were:

- Complaint Handling
- Claims Practices
- Operations and Management

Each business area has standards that the examination measured. Some standards have specific statutory guidelines, others have specific company guidelines, and yet others have contractual guidelines. Since this was a targeted examination, only the standards which were pertinent to the targeted examination or the treatment of claimants were examined.

The focus of the examination is on the methods used by the Company to manage its operations for each of the business areas subject to this examination. This includes an analysis of how the Company communicates its instructions and intentions throughout its operations, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the result findings of the measurement and monitoring activities. The examination also determines whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then made on those areas in which the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance. Most areas are tested to verify the Company is in compliance with West Virginia statutes and rules.

## EXECUTIVE SUMMARY

This examination is the first market conduct examination of Argonaut Great Central Insurance Company conducted by the State of West Virginia. The field portion of the examination began on March 26, 2012 and concluded on April 20, 2012. The examination was conducted at the business office of Argo Group US, Inc. in San Antonio, Texas and also through remote access to the files via VPN (virtual private network). The examination was called as a result of the Final Order entered in Administrative Proceeding No.10-AP-THP-02178. The Administrative Order concluded that the Company committed a single violation of W. Va. Code § 33-11-4(9)(b) and W. Va. Code St. R. §114-14-5.3.

W. Va. Code § 33-11-4a implies that, upon any finding that a company committed an unfair claims settlement practice with respect to a claimant, the Commissioner determines whether or not that practice occurred with such frequency as to be construed as a general business practice of the Company. In this case, the Commissioner determined that the most efficient way to make this determination was through a targeted Market Conduct Examination. The examination primarily focused on third party claims handling with particular attention paid to company responses to pertinent communications from claimants or their representatives (included within Standard G4). Certain standards from the Complaint Handling and Underwriting sections of the *Market Regulation Handbook* were also included within this examination report. The result of the target market examination did reveal that instances of non-compliance with W. Va. Code § 33-11-4(9)(b) cited in Administrative Proceeding No.10-AP-THP-02178 occurred, but not with such frequency as to indicate a general business practice. Testing of all standards was conducted on commercial liability lines only (excluding workers compensation) and results contained within the report.

A total of fifteen (15) standards were reviewed during this examination. Of these fifteen (15) standards, the Company passed thirteen (13) and failed two (2). Of the thirteen (13) standards passed, three (3) included recommendations.

The standard G3 encompassing the specific business practice relevant to the purpose of the examination W. Va. Code R. §114-14-5.3 was passed.

The failed standards were associated with the Company's claim operations:

- Failing to send or not timely sending delay letters. (Standard G2)

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- Not including the appropriate Commissioner's contact information in the denial letters. (Standard G9)

The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to the West Virginia insurance laws and regulations.

## HISTORY AND PROFILE

Argonaut Great Central Insurance Company was incorporated on September 26, 1966, under the laws of Illinois as the American Businessmen's Insurance Company. It began business on September 30, 1966. On January 1, 1969, financial control of the company and its parent, the former Great Central Insurance Company, passed to Teledyne, Inc., Los Angeles, California. Concurrently, the company's parent was merged with and into American Businessmen's Insurance Company, which then changed its name to Great Central Insurance Company. The former parent was incorporated on February 10, 1948 and commenced business on March 5, 1948.

Since March 31, 1971, complete stock control of Argonaut Great Central Insurance Company has rested with Argonaut Insurance Company. Argonaut Insurance Company is a direct subsidiary of Argo Group US, Inc., a Delaware corporation with its business office located in San Antonio, Texas.

Argonaut Great Central Insurance Company's operations specialize in three broadly defined areas: food and hospitality (restaurants, bakeries, catering, and hotels and motels), religious and other institutions (including related private schools and daycares), and specialty retail (dry cleaners, commercial launderers, linen supply, and uniform rental firms). Its products and services are distributed through selected independent agents, brokers, wholesalers and program managers with demonstrated expertise in one or more of its targeted niche markets and through its in-house managing general agent.

The West Virginia market share percentages for 2010 are: 1.098% Commercial Property; 0.778% Commercial Liability; and 1.106% Commercial Auto.



## METHODOLOGY

This examination is based on the standards and tests for a market conduct examination of a property and casualty insurer found in Chapter XVI and XVII of the 2011 NAIC *Market Regulation Handbook* and in applicable West Virginia statutes and rules.

Some of the standards were measured using a single type of review, while others used a combination or all types of review. The types of review used in this examination fall into three general categories: generic, sample, and electronic.

A "generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner or provided by the examinee in response to queries by the examiner.

A "sample" review indicates that a standard was tested through direct review of a random sample of files selected using Audit Command Language (ACL) and sampling methodology described in Chapter XIV of the Handbook. For statistical purposes, an error tolerance level of 7% was used for claims and a 10% tolerance was used for other types of review. Examiners determined acceptance samples designed to rule out, with 95% confidence, that the proportion of errors in the various populations from which the samples were drawn does not exceed the recommended tolerance levels.

An "electronic" review indicates that a standard was tested through use of a computer program or applied to a download of the Company's computer records. This type of review typically reviews all records of a particular type.

Each standard applied is described, and the result of testing is provided under the appropriate standard. The standard, its statutory authority under West Virginia law, and its source in the NAIC *Market Regulation Handbook* are stated and contained within a bold border.

Two areas of the exam -- complaints and claims -- had sampling from specific dedicated populations. The population definition was derived from the functional definition of the process under review. Once the target population has been defined, no selection biases should contaminate the sampling process.

Each standard is accompanied by a "Comment" describing the purpose or reason for the standard. "Results" are indicated, examiner's "Observations" are noted, and in some cases, a "Recommendation" is made. Comments, Results, Observations and Recommendations are maintained with the appropriate standard.

## A. COMPANY OPERATIONS/MANAGEMENT

**Comments:** The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. Because this was a targeted examination primarily focused on claims handling, only two standards of this section of the NAIC Market Regulation Handbook were selected for review. These standards focused mainly on record keeping and the efficiency of the Company's responses to the examiner's requests.

### Standard A 7

NAIC Market Regulation Handbook - Chapter XVI, § A, Standard 7.

Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

W. Va. Code § 33-11-4 & W. Va. Code St. R. § 114-14-1, et seq.

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that an adequate and accessible record exists of the Company's transactions. The focus is on the records and actions considered in a market conduct examination such as, but not limited to, trade practices, claim practices, policy selection and issuance, rating, complaint handling, etc. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate rates and other issues, which can provide harm to the public.

**Results:** Pass

**Observations:** The examiner found that Company's policy and claim files were orderly to the extent that all pertinent events could be reconstructed from the documents and notes the Company maintained.

**Recommendations:** None

### Standard A 9

NAIC Market Regulation Handbook - Chapter XVI, § A, Standard 9

The Company cooperates on a timely basis with examiner performing the examinations.

W. Va. Code § 33-22-9 & W. Va. Code St. R. § 114-15-1, et seq.

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is aimed at assuring that the Company is cooperating with the State in the completion of an open and cogent review of the



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Company's operations in West Virginia. Cooperation with the examiner in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing the cost of the examination.

**Results:** Pass

**Observations:** The Company was exceptionally cooperative. All requests for information were answered timely and the examination proceeded in a cordial atmosphere.

**Recommendations:** None

### B. COMPLAINT HANDLING

**Comments:** Evaluations of the standards in this business area are based on Company responses to various requests for information and the review of the Company's complaint files. W. Va. Code § 33-11-4(10) requires the Company to "...maintain a complete record of all the complaints which it has received since the date of its last examination." The statute also requires that "[t]his record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint." The definition of a complaint is "any written communication primarily expressing a grievance."

#### Standard B1

NAIC Market Regulation Handbook - Chapter XVI, § B, Standard 1

All complaints are recorded in the required format on the company complaint register.

W. Va. Code § 33-11-4(10) & W. Va. Code St. R. §114-15-4.6

**Comments:** The review methodology for this standard is sample and generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company keeps formal track of complaints or grievances as required by statute. An insurer is required to maintain a complete record of all complaints received. The record must indicate the total number of complaints since the last examination, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

**Results:** Pass

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**Observations:** The Examiners reviewed complaints consisting of twelve (12) WVOIC complaints. All WVOIC complaints were on their complaint register. The examiners' review of the sampled claim files showed that no additional complaints were noted. Examiners noted that six complaints outside the audit time period were within the returned complaints list. It included an internal complaint.

**Table B1: Complaints Sample Results**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Complaints	12	12	0	12	0	100%

**Recommendations:** None

### Standard B2

*NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 2*

The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.

*W. Va. Code § 33-11-4(10) & W. Va. Code St. R. §114-14-5.2*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company communicates complaint handling procedures to its policyholders.

**Results:** Pass

**Observations:** The Company's written procedure is to provide a response within the required time frame under the specific state law or regulation. All consumer or Insurance Department complaints are received by Corporate Underwriting and logged into the Consumer Complaint Log, then assigned to a compliance specialist. Corporate Underwriting monitors all complaint responses for timely compliance and confers with the appropriate department management concerning delays, pattern problems, or other issues involving specific responses to complaints.

**Recommendations:** None

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### Standard B3

NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 3

The Company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.

W. Va. Code § 33-11-4(10) & W. Va. Code St. R. 114-14-5.2

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company takes adequate steps to resolve and finalize complaints.

**Results:** Pass

**Observations:** The Company's complaint procedures appear to be adequate to comply with W. Va. Code §33-11-4(10) and W.Va. Code St. R. §114-14-5.2.

**Recommendations:** None

### Standard B4

NAIC Market Regulation Handbook – Chapter XVI, § B, Standard 4

The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

W. Va. Code §§ 33-11-4(10), 33-11-4a & W. Va. Code St. R. § 114-14-5.2

**Comments:** The review methodology for this standard is sample. The standard does not have a direct statutory requirement; however, timeliness is inferred. In the case of complaints concerning claims, direct time requirements are found in regulation. This standard is concerned with the Company responding to complaints timely.

**Results:** Pass

**Observations:** The Company responded within fifteen (15) working days for all WVOIC generated complaints.

Table B4: Complaints Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Complaints	12	12	0	12	0	100

*Recommendations:* None

## G. CLAIMS PRACTICES

*Comments:* The evaluation of standards in this business area is based on Company responses to information requested by the examiner; discussions with Company staff, electronic testing of claim databases, and file sampling during the examination process. This portion of the examination is designed to provide a view of how the Company treats claimants and whether that treatment is in compliance with applicable statutes and rules.

Standard G1	NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 1
The initial contact by the company with the claimant is within the required time frame.	
W. Va. Code § 33-11-4(9)(b) & W. Va. Code St. R. § 114-14-5.1	

*Comments:* Review methodology for this standard is generic, sample, and electronic. This standard derives directly from W. Va. Code §33-11-4(9)(b), which prohibits “[f]ailing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies.” W. Va. Code St. R. §114-14-5.1 states that “[e]very insurer, upon receiving notification of a claim shall, within fifteen (15) working days, acknowledge the receipt of such notice unless full payment is made within such period of time.”

*Results:* Pass

Claim files were selected from two (2) subsets for detail testing. The sample size of each category was determined by its population. Our testing results are included in Table G1 below:

Table G1: Claims, Initial Contact

Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	88	0	100
Closed without payment	422	69	0	69	0	100
Totals	1,648	158	1	157	0	100

## MARKET CONDUCT EXAMINATION ARGONAUT GREAT CENTRAL INSURANCE COMPANY

**Observations:** Review of claims found that all initial contacts were within the required time frame.

**Recommendations:** None

### Standard G2

NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 2.

Timely investigations are conducted.

W. Va. Code § 33-11-4(9)(c) & W. Va. Code St. R. § 114-14-6

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement and is intended to assure that the carrier initiates a prompt and complete investigation. Concerns tested within this standard include compliance with:

- W. Va. Code §33-11-4(9)(c): Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- W. Va. Code St. R. §114-14-6.2(a), which requires that the investigation be initiated within fifteen (15) working days from receiving notice of the claim.
- W. Va. Code St. R. §114-14-6.1, which requires every insurer to promptly conduct and diligently pursue a thorough, fair and objective investigation and may not unreasonably delay resolution by persisting in seeking information not reasonably required for or material to the resolution of a claim dispute.
- W. Va. Code St. R. §114-14-6.7, which requires a notice of necessary delay in investigating claims, if the insurer needs more than thirty (30) calendar days from receipt notice of claim from a third-party claimant to determine whether a claim should be accepted or denied, it shall so notify the claimant in writing within fifteen (15) working days after the thirty-day period expires. If the investigation remains incomplete, the insurer shall provide written notification of the delay to the claimant every forty five (45) calendar days thereafter until the investigation is complete.

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Claim files that did not require the notice of necessary delay because they were resolved in a timely manner were considered to be a "Pass" rather than "Non-applicable" for evaluation purposes of this standard.

**Results:** Fail

Claim files were selected from two (2) subsets for detail testing. The sample size of each category was determined by its population. Our testing results are included in Table G2 below:

Table G2: Claims, timely investigation

Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	66	22	75
Closed without payment	422	69	0	65	4	94
Totals	1,648	158	1	131	26	83

**Observation:** The examiner's review of the claim samples indicated the company failed to send a delay letter(s) or did not timely send a delay letter(s) in twenty-two (22) paid and four (4) closed without payment claims as required by W. Va. Code St. R. §114-14-6.7. Some of the individual claims contained multiple instances of missing or untimely delay letters; the total instances equaled ninety-nine (99).

**Recommendations:** The Company should send delay letters as required by W. Va. Code St. R. §114-14-6.7.

### Standard G3

NAIC Market Regulation Handbook – Chapter XVI, §G, Standard 3

Claims are resolved in a timely manner.

W. Va. Code §33-11-4(9)(l) & (m), W. Va. Code St. R. § 114-14-6.3 & 6.12

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. This standard is intended to assure that claims are promptly settled once liability is reasonably clear. Applicable statutes and rules for this standard include:

- W. Va. Code §33-11-4(9)(f) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- W. Va. Code §33-11-4(9)(m) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance.

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policy coverage in order to influence settlements under other portions of the insurance policy coverage;

- W. Va. Code St. R. §114-14-6.3 Duty after investigation. – Within ten (10) working days of completing its investigation, the insurer shall deny the claim in writing or make a written offer, subject to policy
- W. Va. Code St. R. §114-14-6.12 Notice of applicable time limitations. – No person may negotiate for settlement of a claim with a claimant who is neither an attorney nor represented by an attorney without giving the claimant written notice that the claimant's rights may be affected by a statute of limitations or a policy or contract time limit. Such notice shall be given to first-party claimants not less than thirty (30) days, and to third-party claimants not less than sixty (60) days, before the date on which such time limit expires.

**Results:** Pass with recommendation

Claim files were selected from two (2) subsets for detail testing. The sample size of each category was determined by its population. Our testing results are included in Table G3 below:

Table G3: Claims, claims resolution

Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	82	6	93
Closed without payment	422	69	0	69	0	100
Totals	1,648	158	1	151	6	96

**Observations:** Testing of the sampled files determined that five (5) files were not handled in compliance with W. Va. Code St. R. §114-14-6.3.

The Company failed to deny or make an offer within 10 days after completing the investigations on two (2) claims. Additionally, the Examiner found three (3) claims involving instances where the Company closed the claims due to the claimant not responding to questions or requests for information from the company. The Company should notify the claimant that the claim is considered denied and include the statutory language regarding contacting the OIC. Otherwise, the Company could continue to send the required delay letters and notify when timely required that the claimant's statute of limitations is expiring.



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Testing of the sampled files determined that one (1) file was not handled in compliance with W. Va. Code St. R. §114-14-6.12.

Claimant was not responding to a request for a medical release. The company eventually closed the file as claimant apparently not pursuing the claim. No closure letter sent. Statute of limitations ran out without any notification of a closure, or advising of the statute of limitations.

**Recommendations:** The Company should send written denial letters or written offer, subject to policy, within ten (10) working days of completing its investigation as required by W. Va. Code St. R. § 114-14-6.3.

### Standard G4

NAIC Market Regulation Handbook – Chapter XVI, §6, Standard 4.

The regulated entity responds to claim correspondence in a timely manner.

W. Va. Code §33-11-4(9)(b) & W. Va. Code St. R. §114-14-5.3

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. The standard is intended to assure that companies treat claimants properly by promptly responding to inquiries of claimants and their representatives. Applicable statutes and regulation for this standard include:

- W. Va. Code §33-11-4(9)(b), which prohibits “[f]ailing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies.”
- W. Va. Code St. R. §114-14-5.3 Replies to other pertinent communications. -- A reply shall be made within fifteen (15) working days of receipt by the insurer to all other pertinent communications from a claimant which reasonably suggest that a response is expected.

**Results:** Pass with recommendation

Claim files were selected from two (2) subsets for detail testing. The sample size of each category was determined by its population. Our testing results are included in Table G4 below:



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Table G4: Claims, claims correspondence

Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	86	2	98
Closed without payment	422	69	0	69	0	100
Totals	1,648	158	1	155	2	99

**Observations:** Testing of the sampled files determined that two (2) files were not maintained in compliance with W. Va. Code St. R. §114-14-5.3, as follows:

The files show no response to documentation from the claimant's attorney within fifteen (15) working days. One file had a single instance and one file had two instances.

**Recommendations:** The Company should respond to all communications with claimant or attorney as representative in a timely manner, as required by W. Va. Code St. R. §114-14-5.3.

**Standard G5**

NAIC Market Regulation Handbook – Chapter XVI, §6, Standard 5.

Claim files are adequately documented.

W. Va. Code St. R. §§ 114-14-3, 114-15-4.2(a)&4.4, 114-14-6.3

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Without adequate documentation, proper claimant treatment as well as the various time frames required by statutes and/or regulation cannot be demonstrated. Applicable statutes and regulations for this Standard include:

- W. Va. Code St. R. §114-14-3 – The insurer's claim files shall be subject to examination by the Commissioner or by his or her duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. All communications and transactions emanating from or received by the insurer shall be dated by the insurer. A notation of the substance and date of all oral communications shall be contained in the claim file. Insurers shall either make a notation in the file or retain a copy of all forms mailed to claimants.
- W. Va. Code St. R. §114-15-4.4 Claim files shall be maintained as follows:

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a. A claim file and accompanying records shall be maintained for the calendar year in which the claim is closed plus additional years as set forth in subdivision b, subsection 4.2 of this section. The claim file shall be maintained so as to show clearly the inception, handling and disposition of each claim. The claim files shall be sufficiently clear and specific so that pertinent events and dates of these events can be reconstructed. A claim file shall, at a minimum, include the following items:

1. For property and casualty: the file or files containing the notice of claim, claim forms, proof of loss or other form of claim submission, settlement demands, accident reports, police reports, adjusters' logs, claim investigation documentation, inspection reports, supporting bills, estimates and valuation worksheets, medical records, correspondence to and from insureds and claimants or their representatives, notes, contracts, declaration pages, certificates evidencing coverage under a group contract, endorsements or riders, work papers, any written communication, any documented or recorded telephone communication related to the handling of a claim, including the investigation, payment or denial of the claim, copies of claim checks or drafts, or check numbers and amounts, releases, all applicable notices, correspondence used for determining and concluding claim payments or denials, subrogation and salvage documentation, any other documentation created and maintained in a paper or electronic format necessary to support claim handling activity, and any claim manuals or other information necessary for reviewing the claim;

**Results:** Pass with recommendation

Claim files were selected from two (2) subsets for detail testing. The sample size of each category was determined by its population. Our testing results are included in Table G5 below:

Table G5: Claims, adequate documentation

Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	88	0	100
Closed without payment	422	69	0	66	3	96
Totals	1,648	158	1	154	3	98

**Observations:** Testing of the sampled files determined that the denial letters for three (3) files could not be produced for review in compliance with W. Va. Code St. R. §§114-14-3 and 114-15-4.4, as follows:

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The Company should maintain and provide all written and electronic records for review.

**Recommendations:** The Company should ensure that all claim files clearly show the inception, handling, and disposition of each claim as required by W. Va. Code St. R. §§114-14-3 and 114-15-4.4.

### Standard G6

NAIC Market Regulation Handbook—Chapter XVI, §G, Standard 6

Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.

W. Va. Code §33-11-4(9) & W. Va. Code St. R. §114-14-1, et seq.

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. Concerns tested with this standard include:

- That claim handling meets West Virginia statutes and rules as applied to sales tax payment, correct payees, improper release of claims, and proper payment of non-disputed claims.
- That coverage was checked for proper application of exclusionary language.
- That appropriate disclosures are given when a claim nears the applicable statute of limitations.

Applicable Statutes and regulations include:

- W. Va. Code §33-11-4(9)(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- W. Va. Code St. R. §114-14-6.4 Offers of settlement, —
  - a. In any case where there is no dispute as to coverage and liability, it is the duty of every insurer to offer claimants or their authorized representatives, amounts which are fair and reasonable, as shown by the insurer's investigation of the claim, providing the amounts so offered are within policy limits and in accordance with the policy provisions.
  - b. No insurer may attempt to settle a claim by making a settlement offer that is unreasonably low.
- W. Va. Code St. R. §114-14-6.4, 6.10 Separation of claims. — In any case where there is no dispute as to one (1) or more elements of a claim, payment for such

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element(s) shall be made notwithstanding the existence of disputes as to other elements of the claim where such payment can be made without prejudice to either party.

- W. Va. Code St. R. §114-14-6.12 Notice of applicable time limitations. – No person may negotiate for settlement of a claim with a claimant who is neither an attorney nor represented by an attorney without giving the claimant written notice that the claimant's rights may be affected by a statute of limitations or a policy or contract time limit. Such notice shall be given to first-party claimants not less than thirty (30) days and to third-party claimants not less than sixty (60) days, before the date on which such time limit expires.
- W. Va. Code St. R. §114-14-6.13 Avoidance of payment. – Where liability and damages are reasonably clear, no person may recommend that third-party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract.
- W. Va. Code St. R. §114-14-6.14 Unreasonable travel. – No person may require a claimant to travel unreasonably.
- W. Va. Code St. R. §114-14-6.16 Claim proceeds used to pay premiums of another policy. – No insurer may deduct from a claim payment made under one policy premiums owed by the insured on another policy unless the insured consents.

**Results:** Pass

Claim files were selected from two (2) subsets for detail testing. The sample size of each category was determined by its population. Our testing results are included in Table G6 below:

Table G6: Claims, Claims settlement

Type	Population	Sample	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	88	0	100
Closed without payment	422	69	0	69	0	100
Totals	1,648	158	1	157	0	100

**Observations:** Review of claims found that all were handled appropriately.

**Recommendations:** None

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Standard G7

NAIC Market Regulation Handbook -- Chapter XVI, §G, Standard 7.

Regulated entity claim forms are appropriate for the type of product.

*NOTE: This standard does not have a direct statutory requirement. However, the Commissioner has authority to take action under the provisions of W. Va. Code § 33-11-7.*

**Comments:** Review methodology for this standard is sample. The standard is intended to assure that claims forms are appropriate, not misleading, and do not require claimants to make unreasonable efforts to pursue claims.

**Results:** Pass

Claim files were selected from two (2) subsets for detail testing. The sample size of each category was determined by its population. Our testing results are included in Table G7 below:

Table G7: Claims, Claims Forms

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	88	0	100
Closed without payment	422	69	0	69	0	100
Totals	1,648	158	1	157	0	100

**Observations:** Review of claim forms found that all were appropriate.

**Recommendations:** None

Standard G9

NAIC Market Regulation Handbook -- Chapter XVI, §G, Standard 9

Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

*W. Va. Code § 33-11-4(9) & (1) & W. Va. Code St. R. § 114-14-6.17, 6.3, & 6.5*

**Comments:** Review methodology for this standard is sample. This standard has a direct statutory requirement. Concerns tested for this standard include:

- W. Va. Code St. R. §33-11-4(9)(d) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

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- W. Va. Code St. R. §33-11-4(9)(n) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;
- W. Va. Code St. R. §114-14-6.4 Offers of settlement. --
  - a. In any case where there is no dispute as to coverage and liability, it is the duty of every insurer to offer claimants or their authorized representatives, amounts which are fair and reasonable, as shown by the insurer's investigation of the claim, providing the amounts so offered are within policy limits and in accordance with the policy provisions.
  - b. No insurer may attempt to settle a claim by making a settlement offer that is unreasonably low.
- W. Va. Code St. R. §114-14-6.10 Separation of claims. -- In any case where there is no dispute as to one (1) or more elements of a claim, payment for such element(s) shall be made notwithstanding the existence of disputes as to other elements of the claim where such payment can be made without prejudice to either party.
- W. Va. Code St. R. §114-14-6.12 Notice of applicable time limitations. -- No person may negotiate for settlement of a claim with a claimant who is neither an attorney nor represented by an attorney without giving the claimant written notice that the claimant's rights may be affected by a statute of limitations or a policy or contract time limit. Such notice shall be given to first-party claimants not less than thirty (30) days and to third-party claimants not less than sixty (60) days, before the date on which such time limit expires.
- W. Va. Code St. R. §114-14-6.13 Avoidance of payment. -- Where liability and damages are reasonably clear, no person may recommend that third-party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract.
- W. Va. Code St. R. §114-14-6.17 states the following:

Any notice rejecting any element of a claim shall contain the identity and the claims processing address of the insurer and the claim number. The notice must state that the claimant has the option of contacting the Commissioner. The notice must provide the Commissioner's mailing address, telephone number and website address.

**Results:** Fail



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Claim files were selected for detail testing. The sample size was determined by its population. Our testing results are included in Table G9 below:

Table G9: Claims, Closed without payment sample results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Closed without payment	422	69	0	43	26	62

**Observations:** Testing of the sampled files determined that twenty-four (24) closed without payment claims had denial notices that did not contain the required Commissioner's contact information and thus were not in compliance with W. Va. Code St. R §114-14-6.17. The Company did not issue any denial letter in two additional (2) instances, nor did it make an appropriate notation that denial was made by any other means than writing, as per W. Va. Code St. R §114-14-6.6.

**Recommendations:** The Company should include the appropriate Commissioner's contact information in the denial letters as required by W. Va. Code St. R. § 114-14-6.17.

**Standard G10**

*NAIC Market Regulation Handbook – Chapter XVI, § G, Standard 10*

Canceled benefit checks and drafts reflect appropriate claim handling practices.

*W.Va. Code §33-11-4(9); W.Va. Code St. R. § 114-14-1, et seq.*

**Comments:** Review methodology for this standard is electronic and sample. The concerns tested for this standard include:

- This standard has a direct statutory requirement that cancelled benefit checks include the correct payee and are for the correct amount.
- That payment checks do not indicate the payment is "final" when such is not the case.
- That checks or drafts do not purport to release the insurer from total liability when such is not the case.

**Results:** Pass

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Claim files were selected for detail testing. The sample size was determined by its population. Our testing results are included in Table G10 below:

Table G10: Claims, sample results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Paid claims	1,226	89	1	88	0	100

*Observations:* Checks were in the correct amount and included the correct payee. No exceptions were noted.

*Recommendations:* None

## CONCLUSION

The result of the target market examination revealed instances of non-compliance with W. Va. Code §33-11-4(9)(b) cited in Administrative Proceeding No. 10-AP-THP-02178 occurred, but not with such frequency as to indicate a general business practice.

In addition, there were several other issues regarding non-compliance with state statute or code. They are listed below:

- Five (5) claims violated W. Va. Code St. R. §114-14-6.3 – written denial letters. One (1) claim violated W. Va. Code St. R. §114-14-6.12 – notice of statute of limitations. (Standard G3)
- Two (2) claims violated W. Va. Code St. R. §114-14-5.3 – reply to communications. (Standard G4)
- Three (3) claims violated W. Va. Code St. R. §§114-14-3 and 114-15-4.4 – proper documentation. (Standard G5)

During the course of the examination, there were several issues regarding violations of state statute or code. These occurred with enough frequency as to indicate a general business practice. They are listed below:

- Failing to send or not timely sending delay letters. (Standard G2)
- Not including the appropriate Commissioner's contact information in the denial letters. (Standard G9)



## LIST OF RECOMMENDATIONS

**Recommendation G2:** The Company should send delay letters as required by W. Va. Code St. R §114-14-6.7.

**Recommendation G3:** The Company should send written denial letters or written offer, subject to policy, within ten (10) working days of completing its investigation as required by W. Va. Code St. R §114-14-6.3.

**Recommendation G4:** The Company should respond to all communications with claimant or attorney as representative in a timely manner, as required by W. Va. Code St. R. §114-14-5.3.


**Recommendation G5:** The Company should ensure that all claim files clearly show the inception, handling and disposition of each claim, as required by W. Va. Code St. R. §§114-14-3 and 114-15-4.4.

**Recommendation G9:** The Company should include the appropriate Commissioner's contact information in the denial letters as required by W. Va. Code St. R. §114-14-6.17.

## EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination.

In addition to the undersigned, Brad Beam, MCM, CWCP and John Stike, MCM, CIPA, APA, AFI, AU, CWCP also participated in the examination.

A handwritten signature in dark ink, appearing to read 'M. Hooker', is written over a horizontal line.

Mark A. Hooker, CIE, CPCU, FLMI, MCM, CWCP, CCP, AIRC

Chief Market Conduct Examiner

## EXAMINER'S AFFIDAVIT

State of West Virginia

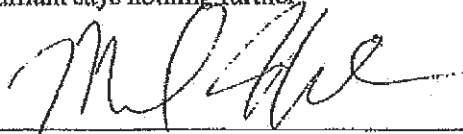
County of Kanawha

### EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION

I, Mark A. Hooker, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of Argonaut Great Central Insurance Company.
2. I have reviewed the examination work papers and examination report, and the examination of Argonaut Great Central Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.



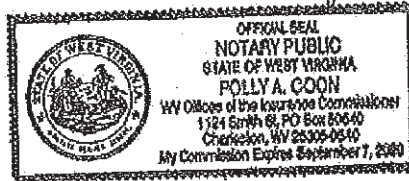
Mark A. Hooker, CIE, CPCU, FLMI, MCM, CWCP, CCP, AIRC  
Chief Market Conduct Examiner

Subscribed and sworn before me by Mark A. Hooker on this 25<sup>th</sup> day of June, 2012.

(SEAL)



Notary Public



My commission expires on Sept. 7, 2020 (date).